

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID W. THOMAS

Appeal 2006-2301
Application 10/606,988
Technology Center 1700

Decided: October 18, 2007

Before EDWARD C. KIMLIN, BRADLEY R. GARRIS, and
CHUNG K. PAK, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-31. Claim 1 is illustrative:

1. A method for manufacturing smooth surface board from fibrous material, the method comprising the steps of:

first conveyor fibrous material through an oven on a first conveyor assembly to produce a board of fibrous material, the first conveyor assembly including a first upper conveyor and a first lower conveyor; and

pulling the board of fibrous material from the oven with a pulling apparatus downstream of the oven at a speed different from the speed of at least one of the first upper conveyor and the first lower conveyor, causing the fibrous material to skid relative to the at least one of the first upper

conveyor and the first lower conveyor, and thereby resulting in a smooth surface board.

The Examiner relies upon the following references as evidence of obviousness:

Debouzie	US 4,632,685	Dec. 30, 1986
Brossy	US 4,992,227	Feb. 12, 1991
Mazza	US 5,843,523	Dec. 1, 1998
Barry	US 6,030,559	Feb. 29, 2000

Appellant's claimed invention is directed to a method for making a smooth surface board from fibrous material. The fibrous material passes through an oven on a conveyor assembly which includes an upper conveyor and a lower conveyor to produce a board of fibrous material. The board is pulled from the oven by an apparatus downstream of the oven at a speed that is different from the speed of at least one of the upper and lower conveyor. Pulling the board at such a different speed causes the fibrous material to skid which results in a smooth surface board. Independent claim 15 also requires that either the upper conveyor or the lower conveyor is driven at a speed faster than the other conveyor.

The appealed claims stand rejected under 35 U.S.C. § 103(a) as follows:

- (a) claims 1, 15, 30, and 31 over Brossy in view of Barry;
- (b) claims 2 and 16 over the stated combination of references;
- (c) claims 3 and 17 over the stated combination of references;
- (d) claims 4 and 18 over the stated combination of references;

- (e) claims 5 and 19 over the stated combination of references;
- (f) claims 6 and 20 over the stated combination of references;
- (g) claim 7 over Brossy in view of Barry and Debouzie;
- (h) claims 8, 21, and 22 over Brossy in view of Barry and Debouzie;
- (i) claims 9 and 23 over Brossy in view of Barry and Debouzie;
- (j) claims 10 and 24 over Brossy in view of Barry;
- (k) claims 11 and 25 over Brossy in view of Barry and Mazza;
- (l) claims 12 and 26 over Brossy in view of Barry;
- (m) claims 13 and 27 over Brossy in view of Barry;
- (n) claims 14 and 28 over Brossy in view of Barry; and
- (o) claim 29 over Brossy in view of Barry.

We have thoroughly reviewed each of Appellant's arguments for patentability. However, we are in complete agreement with the Examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the Examiner's rejections for the reasons set forth in the Answer, which we incorporate herein, and we add the following for emphasis only.

Appellant does not dispute the Examiner's factual determination that Brossy, like Appellant, discloses a method for making a smooth surface board from fibrous material by moving the material through an oven on a conveyor assembly to produce a board of fibrous material, wherein the conveyor assembly includes upper and lower conveyors that move at

different speeds relative to each other in order to produce a skidding action that results in a smooth surface board. As recognized by the Examiner, Brossy is silent with respect to disclosing the use of a pulling apparatus downstream of the oven. However, Barry evidences that it was known in the art to employ a pulling apparatus on a board of fibrous material downstream from an oven through which the material passes. Accordingly, based on the collective teachings of Brossy and Barry, we fully concur with the Examiner that it would have been obvious for one of ordinary skill in the art to incorporate a pulling apparatus of the type disclosed by Barry in the method of Brossy for making a smooth surface board. Inasmuch as Brossy teaches that a smooth surface board is made by causing the fibrous material to skid by having the upper and lower conveyors travel at different speeds, it would have been obvious for one of ordinary skill in the art to have the pulling apparatus pull at a speed different from the speed of the upper or lower conveyor. In our view, one of ordinary skill in the art would have understood that the pulling apparatus can be the only force for effecting different speeds through the oven, or the pulling apparatus can be used in conjunction with the upper and lower conveyors operating at different speeds. Manifestly, the principle remains the same for effecting a smooth board, i.e., the upper and lower surfaces of the board are conveyed at different speeds to effect a skidding action which produces a smooth surface.

Appellant submits that neither of the applied references teaches or suggests using a pulling apparatus to pull the surfaces of the fibrous material

at different rates at a speed different from the speed of the first conveyor apparatus after the material has left the oven (*see* Br. 9, last para.).

However, the Examiner's rejection is under § 103, and it is the combination of references that would have suggested utilizing a pulling apparatus in the method of Brossy.

We are also not persuaded that Barry teaches away from the claimed invention by requiring that sheets 11 and 12 provide a stable, non-shearing environment for the foam. However, this argument misses the thrust of the Examiner's rejection by proposing an ill-advised modification of Barry. As explained by the Examiner, Barry is cited simply as evidence for the obviousness of employing a pulling apparatus for fibrous material downstream of an oven. We agree with the Examiner that Barry is analogous art with respect to the field of endeavor of transporting a fibrous material through an oven.

As a final point, we note that Appellant bases no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to rebut the *prima facie* case of obviousness established by the Examiner.

In conclusion, based on the foregoing and the reasons well stated by the Examiner, the Examiner's decision rejecting the appealed claims is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

clj

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